



**Montana Department of
ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

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September 16, 2008

City of Livingston, 330 Bennett Street, Livingston, MT 59047
Park County Commissioners, 414 E. Callendar Street, Livingston, MT 59047
Park County Public Library, 228 W. Callendar Street, Livingston, MT 59047
Suzanne Brown, Park County Health Officer, 414 E. Callendar Street, Livingston, MT 59047
Randy Taylor, Park County Sanitarian, 414 E. Callendar Street, Livingston, MT 59047
BNSF, 2500 Lou Meck Drive, Fort Worth, TX 76131-2828
Gregory and Billie Roberts, 204 Garnier Avenue, Livingston, MT 59047
Robert and Barbara Agle, P.O. Box 24, Gardiner, MT 59030
Gary and Shari Norton, 4460 N. Sundown Drive, Golden Valley, AZ 86413
Artyce Lizotte, 312 Garnier Avenue, Livingston, MT 59047
Ronald Percival, c/o Mike Gallentine, 408 Garnier Avenue, Livingston, MT 59047
Michael Gallentine, 408 Garnier Avenue, Livingston, MT 59047
Anthony Poeschl, c/o Catherine Poeschl, Livingston, MT 59047-9241
Timothy Poeschl, 414 S. F Street, Livingston, MT 59047
James and Ann Worthington, 508 Garnier Avenue, Livingston, MT 59047
Tammy and Mark Hofland, 212 Grandview Blvd., Livingston, MT 59047
Kirk Hollo and Jolyn Jerde, P.O. Box 1897, Livingston, MT 59047
David and Shirley Nelson, P.O. Box 2065, Livingston, MT 59047
Great West Company of Livingston, P.O. Box 100095, Denver, CO 80250-0095
Bonnie Waters, P.O. Box 117, Livingston, MT 59047
Rainbow Motel, c/o Thomas and Debra Henriksen, 5574 US Hwy 89 S, Livingston, MT 59047
John Krohne, 1500 E. Callendar Street, Livingston, MT 59047
U.S. Army Corps of Engineers, Jean Ramer, 10 W. 15th St., Suite 2200,
Helena, MT 59626
Director, Department of, Fish, Wildlife & Parks, 1420 E 6th Avenue, Helena, MT 59620
Tom Ellerhoff, DEQ, Director's Office, Helena, MT 59620
Jeff Ryan, DEQ, Water Protection Bureau, Helena, MT 59620
Environmental Quality Council, Capitol Complex, Helena, MT 59620
Documents Section, State Library, Capitol Complex, Helena, MT 59620
State Historic Preservation Office, 225 N. Roberts, Helena, MT 59620
Montana Natural Heritage Program, P.O. Box 201800, Helena, MT 59620-1800
Tetra Tech, Inc., 303 Irene Street, Helena, MT 59601
Richard D. Juhnke, 19 West Grannis Road, Livingston, MT 59047
Patricia Grabow, 204 East Callendar Street, Livingston, MT 59047

Ladies and Gentlemen:

On May 15, 2008, the Department of Environmental Quality (Department) published an Environmental Assessment (EA), in accordance with the Administrative Rules of Montana (ARM) 17.4.607(2), 608, 609 and 610, for the proposed City of Livingston Class II Transfer Station. Upon publication, a 30-day public comment period was initiated. During the public comment period, the Department received two written requests for a public meeting. As a result, on July 8, 2008, the Department facilitated an informational public meeting on the licensure of the City of Livingston Class II Transfer Station and extended the close of the public comment period to July 16, 2008.

A total of two individuals submitted formal comments during the public comment period. Two comment letters were received prior to the original June 15, 2008 deadline, and one comment letter was received prior to the close of public comments on July 16, 2008. Attachment 1 contains a copy of each of the public comment letters. This document provides the Department's responses to these comments.

Each of the comment letters has been numbered and each comment has been assigned a numeric designation so that readers of this document can readily refer to the precise text of the various comments to which the Department is responding. The comments contained in each comment letter are reproduced below:

LETTER NO. 1:

Comment 1: *First and foremost, I cannot understand how construction of the new building has been allowed to commence prior to public input on the Environmental Assessment. This would not appear to be in compliance with the MCA.*

Response: The laws and rules governing solid waste management in Montana do not prohibit a facility from construction prior to final license approval. In fact, the Department may require modifications of any proposed design prior to final approval and license issuance, so that any design modifications required must be completed prior to license issuance. Any construction done prior to license issuance is done at the applicant's own risk.

Comment 2: *Contrary to the described elevation approximately 40 ft. above the Yellowstone River, the floor of the lower bay (based on the footings and interior grade), appears to be at or very near the water level. That being the case, the leachate containment vault below that floor would be at or below the river level.*

Response: The document states:

"The site of the proposed transfer station is located on an alluvial bench situated approximately 1,150-ft west and approximately 40-ft above the elevation of the Yellowstone River."

This statement is referring to the level of the main floor of the transfer station. The floor of the lower bay is located at an approximate elevation of 4,469-ft mean sea level (msl). Based on the most recent topographic map, the elevation of the Yellowstone River at this location is approximately 4,440-ft msl. The base of the leachate containment vault will be set at an elevation of approximately 4,458-ft msl. Based on these elevations, the floor of the lower bay will be located

approximately 29-feet above the elevation of the Yellowstone River; the leachate containment vault will be located approximately 18-feet above the elevation of the Yellowstone River.

Comment 3: *The subject area is within the boundaries of the underground contaminated plume from the railroad, has this potential problem been addressed in site investigations and facility design?*

Response: The Department reviewed the proposed site location in relation to the tetrachloroethene (PCE) plume beneath the city. The proposed City of Livingston Transfer Station is located outside the limits of the plume. The most recent map of the PCE plume is available on the Department's website at:

http://www.deq.mt.gov/StateSuperfund/BN_Livingston/Documents/GW_PCE_PRODUCT_PLUME.pdf

Comment 4: *The aforementioned compost pile is being moved down slope towards the river and closer to the water level. This appears to be problematic both in regards to downstream neighbors and with regard to water and fish habitat quality.*

Response: The City proposes to relocate the yard waste composting operation to an area within the historic gravel mining operation that is covered with re-milled and re-compacted asphalt. This closed basin area has a floor elevation of approximately 4,460-ft msl. The elevation of the Yellowstone River is approximately 4,440-ft msl. Based upon these elevations, the yard waste composting operation will be located approximately 20-feet above the elevation of the Yellowstone River. In addition, the area surrounding the yard waste composting operation will be bermed to prevent run-off from the compost pile.

Comment 5: *Will there be a requirement (and room) for the vehicle entry doors to be closed prior to dumping solid waste into the trucks? If not, Livingston's famous winds will likely scatter a substantial portion of the waste.*

Response: The doors are required to be closed during high wind events.

Comment 6: *According to the figures publicly available, Park County is currently paying \$52/ton to ship their solid waste to Helena by rail while the City of Livingston will be paying about \$75/ton to ship by truck to Great Falls on a narrow two lane highway over a mountain pass. The increase in emissions will be considerable, as will the potential for driving problems especially in the winter.*

Response: The Department has no authority over rates charged for the collection and disposal of solid waste. In addition, the Department only requires that transfer stations manage solid wastes in accordance with the laws and rules governing solid waste management and requires that these facilities dispose of the collected solid wastes at a currently licensed facility. The Department does not agree that the increase in emissions will be considerable. Based upon the annual solid waste generation rate of 5,600 tons/year, the City generates approximately 15 tons/day. The transfer trailer will hold a maximum of 60 tons/load. The City will transport one truck every four days. The addition of one truck every four days will have minimal impact on emission.

Comment 7: *I have checked with the local Soil Conservation office and learned that the City did not ask that agency for input nor even provide them with a copy of the Environmental Assessment. Until my inquiry the local office was unaware of this project or its environmentally sensitive location.*

Response: Comment noted. The local Soil Conservation Service was not on the list of interested parties and adjacent landowners. However, a public notice was published in the local newspaper and the Environmental Assessment was posted on the Department's website for public review and comment.

LETTER NO. 2:

Comment 1: *First you said that the cost of the duplicate transfer station was not higher than the cost of working with Park County. The costs presented to DEQ were inaccurate for the residents at \$45 a ton should be around \$75 a ton and the cost for merchants is around \$110 a ton, over \$65 a ton higher than DEQ seems to see it as. The garbage bill for Albertson's in Livingston, for example, is the highest for any Albertson's in the state of Montana. Pamida is paying the City of Livingston \$114 a ton for their garbage. These costs are considerably higher than the \$45 a ton that the county projected for the city. Sadly, the information you are receiving from the city is inaccurate.*

Response: Comment noted. However, the Department's authority does not extend beyond the licensure and management of the solid waste management system in accordance with the laws and rules of Montana governing solid waste management.

Comment 2: *Second, you did not discuss the carcinogenic plum that runs under the proposed transfer station. The City of Livingston has entered into a lawsuit for \$100 million dollars against BNSF against the plume. And you are considering approving a \$1 million transfer station to be built as new construction on that plume?*

Response: The Department reviewed the proposed site location in relation to the tetrachloroethene (PCE) plume beneath the city. The proposed City of Livingston Transfer Station is located outside the limits of the plume. The most recent map of the PCE plume is available on the Department's website at:

http://www.deq.mt.gov/StateSuperfund/BN_Livingston/Documents/GW_PCE_PRODUCT_PLUME.pdf

Comment 3: *Third, a transfer station that will be handling hazardous materials will be built 1,100 feet from the Yellowstone River, one of the most pristine rivers in the country and the Montana DEQ is considering approving this site as a transfer station. The city needs to move its facilities from the proposed spots, not build on them. The city has significant area from which to choose a site for any facility and DEQ is approving this one? It is almost an ethical question.*

Response: The City's plan and the EA state specifically that the facility will not accept hazardous waste and will implement a waste screening program that includes random load inspections to ensure compliance with rules regarding hazardous waste. Unacceptable wastes detected during the random load inspections will be segregated and transferred to an appropriate licensed facility for disposal.

Comment 4: *Since when has DEQ approved two transfer stations for a county with only 15,000 people? Since when had DEQ condoned the actions of a community that overcharges its merchants for garbage and decides to burden its taxpayers, particularly its merchants, in a time of economic downturn and condoned a city's refusal to act in the best interest of its citizens and build a \$1*

million transfer station when there is already one in the city limits and it uses rail, not \$4.00 a gallon gasoline?

Response: The Department received the application from the City of Livingston for the proposed transfer station. This transfer station will be used for the consolidation and transfer of wastes collected from residents and merchants within the city limits. The Park County Transfer Station is used for the consolidation and transfer of wastes collected from residents outside the city limits. The Department understands that the City and County have separate solid waste boards. However, the Department's authority does not extend beyond the licensure and management of the solid waste management system in accordance with the laws and rules of Montana governing solid waste management.

Comment 5: *Since when has DEQ condoned such waste?*

Response: Please see previous response.

LETTER NO. 3:

Comment 1: *First, since I did not have a chance to read the Environmental Assessment given by the DEQ until this week, I did not know that the EA did not mention the BNSF plume in which the transfer station is being built. The City of Livingston joined approximately 40 residents in the carcinogenic BNSF plume in a \$100 million lawsuit through attorneys Karl Knutchel and Mark Hartwig. Building within the perimeters of the plume, first, jeopardizes the viability of the lawsuit. Why is the City of Livingston building another structure for workers to report to within a contaminated area? The potential risk was great enough for the City to impose on BNSF to spend \$100 million dollars to mitigate. The City of Livingston made the decision to see correction of that plume for the health and well being of its workers and citizens. Why would they jeopardize that correction? Does this duplicate transfer station make what was otherwise considered a serious lawsuit into a frivolous one? The EA does not even address the issues surrounding this. The method of the workers and citizens, according to the lawsuit, is both by ground water and in the air. This has not been addressed in the EA.*

Response: The Department reviewed the proposed site location in relation to the tetrachloroethene (PCE) plume beneath the City. The proposed City of Livingston Transfer Station is located outside the limits of the plume. The most recent map of the PCE plume is available on the Department's website at:

http://www.deq.mt.gov/StateSuperfund/BN_Livingston/Documents/GW_PCE_PRODUCT_PLUME.pdf

Comment 2: *The citizens have not had the opportunity to see the City of Livingston's application for the duplicate transfer station.*

Response: The Department's files are open to the public for review during normal business hours. In addition, as of the date of this letter, a formal written request for a copy of the license application for the proposed transfer station has not been made to the Department.

Comment 3: *There is a viable transfer station that the citizens of Livingston have paid for. The published EA denied the option of utilizing the Park County Transfer Station because it would be additional cost to the residents. In fact, quite the opposite is true. Currently the City is stating that it can ship the garbage for around \$54.00 per ton. The City is currently charging the city residents \$45.00 per ton for garbage and \$141.40 for merchants in the community. Were the city to participate with in the existing Park County Transfer Station, the difference between what the city*

pays to transfer garbage and what they are collecting from the merchants, \$89.40 per ton, according to Montana state law, would have to be shared with the county and the city has already encumbered that money in leases on cars, etc. by the city. Thus, the duplicate transfer station is costing the citizens of Livingston, particularly the merchants, considerably more than if they were to share the existing transfer station with the county. I request that this matter be looked into because the "additional cost to the residents" statement was made in the EA. The air quality segment of the EA was entirely wrong in light of the carcinogenic plume.

Response: The proposed City of Livingston Transfer Station will be used for the consolidation and transfer of wastes collected from residents and merchants within the city limits. The currently licensed Park County Transfer Station is used for the consolidation and transfer of wastes collected from residents outside the city limits. The Department understands that the City and County have separate solid waste boards. However, the Department's authority does not extend beyond the licensure and management of the solid waste management system in accordance with the laws and rules of Montana governing solid waste management.

This concludes the Department's response to the comments received in regards to the licensure of the City of Livingston Class II Transfer Station.

Sincerely,



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Solid Waste Licensing Program
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